

REMARKS

The Applicant has received the Office Action dated February 27, 2004, in which the Examiner: (1) objected to the specification as allegedly failing to provide proper antecedent basis for claims 6, 11, and 16; (2) objected to claims 14 and 15 for various formalities; (3) rejected claims 1, 2, 6-10, 12, and 16-20 under 35 U.S.C. § 103 as allegedly obvious in light of *Lurie* (U.S. Pat. No. 5,797,284) in view of *Heinz* (U.S. Pat. No. 2,729,749); (4) rejected claims 3 and 13 under 35 U.S.C. § 103 as allegedly obvious in light of *Lurie* and *Heinz* in further view of *Sanders* (U.S. Pat. No. 5,025,564); (5) rejected claims 4, 5, 14, and 15 under 35 U.S.C. § 103 as allegedly obvious over *Lurie* and *Heinz* in further view of *Brandenberger* (U.S. Pat. No. 1,988,476); and (6) rejected claim 11 under 35 U.S.C. § 103 as allegedly obvious in light of *Lurie* and *Heinz* in further view of *Huang* (U.S. Pat. No. 5,730,013).

In this Response, claims 1, 6, 10, 14, and 15 have been amended. Also, claims 7 and 19-20 have been canceled, and new claims 21-24 have been added. The Applicant respectfully requests reconsideration and allowance of the pending claims.

Canceled Claims:

Claims 7 and 19-20 have been canceled in this Response in an effort to lighten the burden on the Examiner. The cancellation of these claims is not intended to be a relinquishment or a dedication to the public of the claimed subject matter. In fact, Applicant reserves the right to reassert the subject matter from canceled claims 7 and 19-20, for example, as part of a continuation application.

Amendments to the Specification:

The Applicant has amended the Specification by replacing the paragraph following paragraph number twenty three with a numbered version of the same. In addition, subject matter from originally filed claims 6, 16, and 11, has been amended into the Specification at newly added paragraph twenty five. Accordingly, the Applicant respectfully submits that claims 6, 16, and 11 have antecedent basis support in the Specification and therefore the objection to the Specification should be withdrawn.

Claim Formalities:

As mentioned above, the Examiner objected to claims 14-15. The Applicant has amended claims 14-15 in order to correct a minor numbering error. Accordingly, the Applicant respectfully submits that the objections to claims 14-15 should be withdrawn. Additionally, the Applicant has amended claim 6 to correct a clerical error. The Applicant respectfully submits that these amendments are non-narrowing and are not related to the patentability of claims 6, 14, and 15.

Claim Rejections Under 35 U.S.C. § 103:

Claims 1 and 10

As mentioned above, the Examiner rejected independent claims 1 and 10 under 35 U.S.C. § 103 as allegedly obvious in light of *Lurie* and *Heinz*. As the Examiner is undoubtedly aware, in order to establish obviousness, the cited art must teach or suggest all of the claim limitations. The Applicant respectfully traverses the §103 rejections because *Lurie* and *Heinz* fail to teach or suggest all of the claim limitations.

Amended claim 1 recites a “physical restraint device comprising a primary locking mechanism and a secondary locking mechanism, wherein each locking mechanism includes a luminescent material.” Figures 2 and 3 of the present application show exemplary primary and secondary locking mechanisms respectively. The primary locking mechanism locks the restraint device, whereas the secondary locking mechanism prevents the jaw of the restraint device from engaging any further—this is also known as “double locking” the restraint devices.

Lurie, on the other hand, is directed to handcuffs having a single cylinder lock 36 (shown in *Lurie*, Figure 1), which is offset from the keyway plane 50 to make it more difficult for a prisoner to escape. Col. 4, ll. 19-21. In fact, one of the purported benefits of this single cylinder lock 36 is that “the locking mechanism ... is put into the double locking position by inserting the same key into the same keyway used for putting the key in the ‘ready to lock’ position.” Col. 5, lines 52-56. In other words, *Lurie* specifically teaches away from the use of two separate locking mechanisms. Accordingly, independent claims 1 and 10 (as well as all of their dependent claims) are patentable over the cited art for at least this reason.

Secondary Indicia of Non-Obviousness

In addition to the aforementioned reasons, the pending claims are not rendered obvious by the cited art for additional reasons. For example, the age of some of the references is testament to the fact that the Applicant has solved a long felt but unsolved need in the area of physical restraint devices. The Applicant admits that physical restraint devices have existed since medieval times. Further, the problems associated with the relatively minute apertures of physical restraint devices also have existed for quite some time and represent a long felt but unsolved need. However, *Brandenberger* was issued in 1935 (68 years before the present application was filed) and *Heinz* was issued in 1956 (47 years before the present application was filed). Thus, if the subject matter in the pending claims is as "obvious" as the Examiner purports it to be, then why has it taken anywhere from 47-68 years for such "obvious" subject matter to come to fruition? Clearly, this evidence weighs against a finding that the claims are indeed obvious and must be considered as secondary evidence that the cited art fails to establish a *prima facie* case of obviousness. See generally, MPEP § 2142 (stating that the legal determination that the reference teachings establish a *prima facie* case of obviousness must be more probable than not.)

New Claims 21-24

New claims 21-24 depend on claims 1 and 10 and are patentable over the cited art for additional reasons. Claims 21-24 are directed to adhesively attaching the luminescent material to the restraint devices, particularly, through the use of stickers and/or glue. For example, the luminescent material may be formed on a piece of paper which is cut out and glued to the restraint devices. Since none of the cited art references teach or even suggest the use of stickers or glue to apply luminescent material to the restraint devices in this manner, claims 21-24 are patentable over the cited art for at least this additional reason.

Conclusions:

In the course of the foregoing discussions, The Applicant may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as

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a whole, and each limitation of the claims must be considered when determining the patentability of the claims. The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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